

Report on the Supplementary Legislative Consent Memorandum for the Levelling-up and Regeneration Bill

The Levelling-up and Regeneration Bill

1. The Levelling-up and Regeneration Bill ("the Bill") was introduced in the House of Commons on 11 May 2022 by Michael Gove MP. The Bill is sponsored by the Department for Levelling Up, Housing and Communities.
2. The Welsh Government has laid three legislative consent memorandums for the Bill –
 - The Welsh Government's Legislative Consent Memorandum was laid on 28 September 2022.
 - The Welsh Government's Revised Legislative Consent Memorandum was laid on 25 November 2022.
 - The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No.2) was laid on 30 November 2022.
 - The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) ('SLCM3') was laid on 27 April 2023.
3. Standing Order 29 provides that the Welsh Ministers must lay a Legislative Consent Memorandum ('LCM') where a Bill makes provision in relation to Wales:
 - (i) for any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings



provisions relating to matters that are not within the legislative competence of the Senedd); or

- (ii) which modifies the legislative competence of the Senedd.

4. Standing Order 29.2(iii) states that the LCM must normally be laid no later than two weeks after amendments have been tabled by a Minister of the Crown. The amendments to which SLCM3 relate were tabled by the UK Government on 13 March 2023. The Minister explains in paragraph 3 of SLCM3 that she was not informed by the UK Government until 27 March that amendments had been tabled.

Policy objectives

5. Paragraph 5 of the Revised LCM states that the Bill has four overarching objectives:

- i. To place a duty on the UK Government to set, and report annually on progress towards achieving levelling up missions to reduce geographical disparities across the United Kingdom;
- ii. To create a modern framework to support the most radical devolution of powers in modern times through the creation of a new model of combined county authorities to support delivery of the UK Government's levelling up mission that 'by 2030, every part of England that wants one will have a devolution deal with powers at or approaching the highest level of devolution and a simplified, long-term funding settlement';
- iii. To deliver a new suite of powers for local authorities to regenerate their towns through high street rental auctions and reforms to compulsory purchase to support delivery of the UK Government's levelling up mission that 'by 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between top performing and other areas closing'; and
- iv. To create a planning system which delivers more beautiful and greener homes, with the associated infrastructure and democratic support that neighbourhoods want and deserve.

Committee consideration

6. This Report considers only the provisions in the Bill that relate to matters within the Committee's remit.

Provisions in the Bill for which consent is required

Environmental Outcomes Reports, Part 6, clauses 138-152

7. SLCM3 concerns amendments to clause 139 (Environmental outcomes reports for relevant consents and relevant plans). The relevant amendments are set out in paragraphs 14 to 18 of SLCM3.

8. Paragraph 13 of SLCM3 states that:

"As currently drafted clause 139, (clause 117 as introduced) allows the Secretary of State to make regulations requiring that an EOR [Environmental Outcomes Report] is prepared as a requirement to proceed with relevant plans or grant consent to relevant projects. Subsection (4) (a) captures the need of an EOR [Environmental Outcomes Report] to demonstrate how the plan or consent would affect the delivery of specified environmental outcomes as defined in regulations. Subsection (4) (b) reflects that, in addition, an EOR [Environmental Outcomes Report] must assess any steps proposed to avoid, mitigate, remedy or compensate effects relation to the delivery of a specified environmental outcome. This is known as the mitigation hierarchy."

9. The Minister explains in paragraphs 19 and 20 of SLCM3:

"The intended collective effect of amendments 373A to 373F is to remove the word 'remedy' as it is not a term generally used in the mitigation hierarchy and moves subsection 139(4)(b)(i) (increase delivery of outcomes) to a separate subclause to emphasise that making environmental enhancements should not mean that the hierarchy can be disapplied."

and

"It is UK Government's view that these minor changes to the wording of the clause will ensure that the mitigation hierarchy set out in the Bill is consistent with the hierarchy as is generally understood, as well as the precautionary principle, the prevention principle, and the principle of rectification at source."

The Minister's view

10. The Minister notes in paragraph 22 of SLCM3 that:

"In line with our position to date as set out in the LCM and revised LCM, I recommend withholding consent for the provisions relating to EOR. I maintain my line that if regulation making powers were reflective of devolved interests in relation to EOR, we would re-consider our position. Negotiations in relation to the EOR provisions remain ongoing."

11. The Minister concludes by recommending that the Senedd withholds consent for the provisions relating to clause 139 along with the remainder of Part 6 on environmental outcomes reports.

Overall conclusion

We note that at the time of consideration of this report, the Welsh Government was not in a position to recommend that the Senedd give consent to the provisions in the Bill relating to environmental outcomes reports. The Minister has said this might change, subject to agreement on regulation-making powers, but negotiations between the UK and Welsh governments are ongoing. Until this issue is resolved and the Welsh Government is in a position to provide the Senedd with further information, the Committee is unable to come to a view on whether to recommend to the Senedd that it gives or withholds legislative consent.